

**IN THE UNITED STATES COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

DUSTIN FARRIS,
Plaintiff,

v.

STATE FARM LLOYDS
Defendant.

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CIVIL ACTION NO. _____
JURY

DEFENDANT STATE FARM LLOYDS' NOTICE OF REMOVAL

Defendant State Farm Lloyds files this Notice of Removal, because diversity of citizenship exists under 28 U.S.C. § 1332.

PROCEDURAL BACKGROUND

1. Plaintiff Dustin Farris filed this action on September 3, 2019 against State Farm Lloyds in the 284th Judicial District Court of Montgomery County, Texas. The case was docketed under cause number 19-09-11997 (the "State Court Action").
2. State Farm Lloyds was served with citation and Plaintiff's Original Petition on September 16, 2019. The statutory deadline to remove this action under 28 U.S.C. §1446(b)(1) is 30 days after Defendant's receipt of the initial pleading.
3. State Farm Lloyds timely files this Notice of Removal pursuant to 28 U.S.C. §1446 to remove the State Court Action from the 284th Judicial District Court of Montgomery County, Texas to the United States District Court for the Southern District of Texas, Houston Division.
4. State Farm Lloyds filed its Original Answer on October 7, 2019.

NATURE OF THE SUIT

5. This lawsuit involves a dispute over the handling and alleged under-payment of Plaintiff's claim for damages allegedly caused by a storm on or about March 18, 2018.¹ Plaintiff asserts causes of action against State Farm Lloyds for: (1) breach of the insurance contract; (2) violations of Chapter 541 of the Texas Insurance Code; (3) violations of the Prompt Payment of Claims Act; (4) breach of the duty of good faith and fair dealing; (5) violations of the DTPA; and (6) fraud.²

BASIS FOR REMOVAL

6. The Court has jurisdiction over this action under 28 U.S.C. § 1332 because there is and was complete diversity between all parties and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

A. Diversity of the Parties

7. Removal is proper because there is and was complete diversity between the parties under 28 U.S.C. § 1332 both at the time of the filing of Plaintiff's Original Petition and at the time of its removal to this Court.

8. Plaintiff was, at the time of filing this lawsuit, and still is, a citizen of Montgomery, Texas and resides in Montgomery County, Texas.³

9. State Farm Lloyds was at the time this action was commenced, and still is, a citizen of Illinois. State Farm Lloyds is a "Lloyds Plan" organized under Chapter 941 of the Texas Insurance Code. It consists of an unincorporated association of underwriters

¹ Plaintiff's Original Petition, ¶¶ 9-12.

² *Id.* at ¶¶ 21-27, 30 – 52.

³ *Id.* at ¶¶ 2, 5.

who were at the time this action was commenced, and still are, all citizens and residents of Illinois, thereby making State Farm Lloyds a citizen of Illinois for diversity purposes.⁴

B. Amount in Controversy

10. Plaintiff's Original Petition expressly alleges damages in excess of \$75,000.00 satisfying the "amount in controversy" requirement of 28 U.S.C. § 1332(a).⁵

REMOVAL IS PROCEDURALLY CORRECT

11. This notice of removal is timely under 28 U.S.C. § 1446(b). State Farm Lloyds was served with process on September 16, 2019.

12. Venue is proper in this division under 28 U.S.C. §1441(a) because this district and division embrace the place in which the removed action has been pending.

13. In accordance with 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served upon State Farm Lloyds in the State Court Action are attached to this notice as Exhibit B.

14. Additionally, all documents required by Local Rule 81 to be filed with this Notice of Removal are attached and indexed in Exhibit A.

15. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal will promptly be given to all parties and to the clerk of the 284th Judicial District Court of Montgomery County, Texas.

⁴ See *Royal Ins. Co. of Am. v. Quinn-L Capital Corp.*, 3 F.3d 877, 882-83 (5th Cir. 1993) (citizenship of unincorporated association determined by citizenship of members).

⁵ Plaintiff's Original Petition, ¶ 66.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, State Farm Lloyds demands a trial by jury.

PRAYER

Defendant respectfully requests that the State Court Action be removed and placed on this Court's docket for further proceedings. Defendant also requests any additional relief to which it may be entitled.

Respectfully submitted,

By: /s/ M. Micah Kessler

M. Micah Kessler

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was duly served upon counsel of record by U.S. Mail, certified return receipt requested and email on October 7, 2019, as follows:

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/s/ M. Micah Kessler
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